TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 779.

AUGUSTUS D. JUILLIARD, PLAINTIFF IN ERROR,

vs.

THOMAS S. GREENMAN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED JULY 9, 1879.

SUPREME COURT OF THE UNITED STATES.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the judges of the circuit court of the United States for the southern district of New York, in the second circuit, greeting:

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in the said circuit court before you, between Augustus D. Juilliard, plaintiff, and Thomas S Greenman, defendant, a manifest error hath happened, to the great damage of the said Augustus D. Juilliard, as by his complaint appears, we being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the second Monday of October next in the said Supreme Court to be then
2 and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 24th day of June, in the year of our Lord one thousand eight hundred and seventy-nine.

[SEAL.] JOHN I. DAVENPORT,
Clerk of the Circuit Court of the United States for the Southern District of New York.

The foregoing writ is allowed this 24th day of June, 1879.

SAM'L BLATCHFORD,
Circuit Judge.

3 (Indorsed:) U. S. Supreme Court. Augustus D. Juilliard ag'st Thomas S. Greenman. Original. Writ of error. Butler, Stillman & Hubbard, attorneys for pl'ff in error, 111 Broadway, N. Y. U. S. circuit court. Filed June 26, 1879. John I. Davenport, clerk.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

4 I, John I. Davenport, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, by virtue of the foregoing writ of error, and in obedience thereto, do hereby certify that the following pages, numbered from six to thirty-four inclusive, contains a true and complete transcript of the record and proceedings had in said court in the case of Augustus D. Juilliard, plaintiff in error, against Thomas S. Greenman, defendant in error, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this third day of July, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independ-
5 ence of the said United States the one hundred and third.

[SEAL.] JOHN I. DAVENPORT, *Clerk.*

6 United States circuit court for the southern district of New York.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN.

To the above-named defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service; and in case of your failure to appear or answer judgment will be taken against you by default for the relief demanded in the complaint.

Witness the honorable Morrison R. Waite, Chief Justice of Supreme Court of the United States, at the city of New York, this 22d day of April, in the year one thousand eight hundred and seventy-nine.

[L. S.] JOHN I. DAVENPORT, *Clerk.*

BUTLER, STILLMAN AND HUBBARD, *Plaintiff's Attorneys,*
Office and Post-Office Address, No. 111 *Broadway, New York City.*

7 (Indorsed:) United States circuit court, southern district of New York. Augustus D. Juilliard vs. George Greenman. Summons. Butler, Stillman & Hubbard, plaintiff's attorneys, No. 111 Broadway, N. Y.

8 Circuit court of the United States, southern district of New York.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN.

The plaintiff above named, by Butler, Stillman and Hubbard, his attorneys, complains of the defendant above named, and shows to this court—

First. That the said plaintiff is a citizen of the State of New York, and that said defendant is a citizen of the State of Connecticut.

Second. That heretofore, in the month of March, 1879, the said plaintiff, at the city of New York, in the said State of New York, sold and delivered to the said defendant, at his special instance and request, certain goods and merchandise, to wit, one hundred bales of cotton,

9 of the value and for the agreed price of five thousand one hundred and twenty-two $\frac{99}{100}$ dollars, for which said defendant agreed to pay in cash the said last-mentioned sum on the delivery of said goods and merchandise.

Third. That the said defendant has not paid for the said goods and merchandise the said agreed price, or any part thereof, except that he has paid on account thereof the sum of twenty-two $\frac{99}{100}$ dollars, and is now justly indebted to plaintiff therefor in the sum of five thousand one hundred dollars.

Wherefore plaintiff demands judgment against the defendant for the said sum of five thousand one hundred dollars, with interest thereon from the 11th day of April, 1879, and the costs of this action.

BUTLER, STILLMAN & HUBBARD,
Plaintiff's Attorneys.

10 SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

Augustus D. Juilliard, being duly sworn, deposes and says, that he is the plaintiff above named, that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own

knowlege except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

AUGUSTUS D. JUILLIARD.

Subscribed and sworn to before me this 21st day of April, A. D. 1879.
[NOTARIAL SEAL.] C. J. SIMPSON,
Notary Public, N. Y. Co.

11 (Endorsed:) U. S. circuit court, south'n dist. of New York. Augustus D. Juilliard ag'st Thomas S. Greenman. Original. Summons and complaint. Butler, Stillman and Hubbard, pl'f's att'ys, 111 Broadway, N. Y.

Due service of a copy of the within complaint is hereby admitted. Dated N. Y., April 23d, 1879.

JAMES McKEEN,
D'f't's Atty.

U. S. circuit court. Filed April 30th, 1879. John I. Davenport, clerk.

12 U. S. circuit court, south. dist. of N. Y.

AUGUSTUS D. JUILLIARD
ag'st
THOMAS S. GREENMAN.

I hereby appear for the defendant above named in this action, admit service of the summons and complaint upon him, and demand that all papers be served upon me at my office, No. 120 Broadway, New York City.

Dated New York, April 23d, 1879.
Yours, &c.,

JAMES McKEEN,
Attorney for Defendant.

To Messrs. BUTLER, STILLMAN AND HUBBARD,
Attorneys for Plaintiffs.

13 (Endorsed:) U. S. circuit c't, southern district of N. Y. Augustus D. Juilliard vs. Thos. S. Greenman. Notice of appearance.

Due service within notice; appearance admitted, April 23d, 1879.
BUTLER, STILLMAN & HUBBARD,
Pl'ff's Att'ys.

U. S. circuit court. Filed June 6, 1879. John I. Davenport, clerk.

14 Circuit court of the United States, southern district of New York.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN. } Answer.

The defendant above named, by James McKeen, his attorney, answers the complaint and says:

First. Defendant admits that he is a citizen of the State of Connecticut, and that plaintiff is a citizen of the State of New York; and defendant admits that he purchased from the plaintiff the cotton referred to in the complaint, and agreed to pay therefor as is therein stated.

Second. Defendant avers that after the delivery of said cotton and before the commencement of this action he offered and tendered to plaintiff in full payment twenty-two dollars and fifty cents in gold
15 coin of the United States, forty cents in silver coin of the United

States, a United States note of the denomination of $5,000, numbered "A 106, series of 1878," and a United States note of the denomination $100, numbered "A 17015, series of 1878." That said notes were payable to bearer, and of the description known as United States legal-tender notes. That at the time of offering and tendering said notes and coin to the plaintiff, the sum of $5,122.90 was the entire amount due and owing in payment for said cotton, but plaintiff declined to receive said notes in payment of $5,000 thereof.

Third. Defendant avers and alleges upon information and belief that said notes were a reissue of that amount of the United States legal-tender notes, which had been redeemed subsequent to January 1st, 1879, at the United States sub-treasury in New York. That said
16 notes subsequent to such redemption were issued and kept in circulation under and in pursuance of the act of Congress, entitled "An act to forbid the further retirement of United States legal tender notes," approved May 31, 1878.

Fourth. Defendant continues ready and willing to pay to the plaintiff the sum of $5,100 in said notes.

Wherefore defendant prays judgment that the complaint be dismissed with costs.

JAMES McKEEN,
Defendant's Att'y.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James McKeen, being sworn, says he is defendant's attorney; that he verifies this answer because the defendant is not within this State or district, but is in Connecticut. That the said answer is true, to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true. That the grounds of deponent's belief are examination of the United States notes referred to, enquiry made at the United
17 States sub-treasury in New York, and written communication had with the defendant.

JAMES McKEEN.

Sworn to before me April 24th, 1879.

GURDON S. BUCK,
Notary Public, N. Y. Co.

(Endorsed:) United States circuit court, southern district of New York. Augustus W. Juilliard against Thomas S. Greenman. Answer. James McKeen, att'y, &c., def't, 120 Broadway, N. Y. City.

Due service of copy within answer this day admitted. Dated April 24th, 1879.

BUTLER, STILLMAN & HUBBARD,
Pl'ff's Att'ys.

U. S. circuit court. Filed June 6, 1879. John I. Davenport, clerk.

18 *Amended answer.*

Circuit court of the United States, southern district of New York.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN.

The defendant above named, by James McKeen, his attorney, answers the complaint and says:

First. Defendant admits that he is a citizen of the State of Connecticut, and that plaintiff is a citizen of the State of New York; and de end ant admits that he purchased from the plaintiff the cotton referred

to in the complaint; that said cotton was delivered to him, and he agreed to pay therefor, as is stated in the complaint.

Second. Defendant avers that after the delivery of said cotton, and before the commencement of this action, he offered and tendered to plaintiff in full payment twenty-two dollars and fifty cents, gold coin of the United States, forty cents in silver coin of the United States, United States note numbered "A 106, series of 1878," of the denomination of $5,000, and a United States note numbered "A 17015, series of 1878" of the denomination $100. That said notes were of the description
19 known as United States legal tender notes, purporting by recital thereon to be legal tender, at their respective face values, for all debts, public and private, except duties on imports and interest on the public debt. That at the time of offering and tendering said notes and coin to the plaintiff the sum of $5,122.90 was the entire amount due and owing in payment for said cotton, but plaintiff declined to receive said notes in payment of $5,100 thereof. And defendant avers and alleges, upon information and belief, that said notes were a reissue of that amount of United States legal tender notes which had been redeemed subsequent to January 1st, 1879, at the United States sub-treasury in New York. That they are notes which, after being presented for payment at said sub-treasury and paid in gold coin, were reissued and kept in circulation under and in pursuance of the act of Congress entitled "An act to forbid the further retirement of United States legal tender notes," approved May 31st, 1878.

Fourth. Defendant has ever since remained, and still is, ready and willing to pay the plaintiff the said sum of $5,100 in said notes;
20 and defendant brings the said notes above described into this court, ready to be paid to the plaintiff if he will accept the same.

Wherefore defendant prays judgment that the complaint be dismissed with costs.

JAMES McKEEN,
Defendant's Att'y.

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

James McKeen, being sworn, says he is defendant's attorney; that he verifies this amended answer because the defendant is not within this State or district, but is in Connecticut; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true; that the grounds of deponent's belief are written and oral communications had with defendant, and knowledge acquired at the sub-treasury in New York City.

JAMES McKEEN.

Sworn to before me June 5th, 1879.

GURDON S. BUCK,
Notary Public, N.Y. Co.

21 (Endorsed:) United States circuit court, southern district of New York. Augustus D. Juilliard vs. Thomas S. Greenman. Amended answer. James McKeen, att'y, &c., def't, 120 Broadway (Equitable Building), N. Y. City.

Due service of a copy within amended answer this day admitted. June 5, 1879.

BUTLER, STILLMAN & HUBBARD,
Pl'ff's Att'ys.

U. S. circuit court. Filed June 6th, 1879. John I. Davenport, clerk.

22 *Demurrer to amended answer.*

Circuit court of the United States, southern district of New York, second circuit.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN.

The plaintiff above named, by Butler, Stillman and Hubbard, his attorneys, demurs to the amended answer of the defendant herein, upon the ground that the defense, consisting of new matter, is insufficient in law, upon the face thereof, and that the facts stated in said amended answer do not constitute any defense to the cause of action set forth in the complaint.

BUTLER, STILLMAN AND HUBBARD,
Attorneys for Plaintiff.

23 (Endorsed:) U. S. circuit court, southern district of New York, second circuit. Augustus D. Juilliard ag'st Thomas S. Greenman. Demurrer to amended answer. Butler, Stillman and Hubbard, pl'ff's att'ys, 111 Broadway, N. Y.

Due service of a copy of the within demurrer to the amended answer herein is hereby admitted.
Dated N. Y., June 6th, 1879.

JAMES McKEEN,
Defendant's Att'y.

U. S. circuit court. Filed June 6, 1879. John I. Davenport, clerk.

24 At a stated term of the circuit court of the United States for the southern district of New York, held at the court-room in the city of New York, on the 7th day of June, A. D. 1879.
Present, Hon. Samuel Blatchford, circuit judge.

AUGUSTUS D. JUILLIARD
against
THOMAS S. GREENMAN.

This case having been brought on for hearing upon the complaint, amended answer, and demurrer to said amended answer, and after hearing Mr. William Allen Butler for the plaintiff, and Mr. James McKeen for the defendant, it is now ordered that the said demurrer be and hereby is overruled, and that the defendant have and recover judgment in this action dismissing the complaint and for costs of the action.

SAM'L BLATCHFORD.

25 (Endorsed:) U. S. circuit court, southern dist. of N. Y. Juilliard vs. Greenman. Order for judgment with costs. Filed in open court June 7, 1879. U. S. circuit court. Filed June 7, 1879. John I. Davenport, clerk.

26 *Final judgment.*

United States circuit court, southern district of New York.

AUGUSTUS D. JUILLIARD
ag'st
THOMAS S. GREENMAN.

This cause having been brought to a hearing at a stated term of the

court before honorable Samuel Blatchford, circuit judge, at New York City, on the 7th day of June, 1879, on the complaint, amended answer, and plaintiff's demurrer to said amended answer, Mr. William Allen Butler for the plaintiff, Mr. James McKeen for the defendant, and an order having been made that defendant have judgment overruling said demurrer and dismissing the complaint, with costs, and defendant's costs having been duly taxed at $15.85: Now, on motion Mr. James McKeen, defendant's attorney, it is adjudged that the complaint herein be, and hereby is, dismissed, and that the defendant have and recover from the plaintiff, Augustus D. Juilliard, the sum of $15.85 costs, and that execution issue therefor.

Judgment signed this 11th day of June, A. D. 1879.

J. M. DEUEL,
D'p'y Clerk.

27 (Endorsed:) U. S. circuit court, southern district of New York. Augustus D. Juilliard ag'st Thomas S. Greenman. Judgment dismissing the complaint. James McKeen, def't's attorney, 120 Broadway, N. Y. City. U. S. circuit court. Filed June 11th, 1879. John I. Davenport, clerk.

28 Supreme Court of the United States.

AUGUSTUS D. JUILLIARD, PLAINTIFF,
against
THOMAS S. GREENMAN, DEFENDANT.

Know all men by these presents that we, Augustus D. Juilliard, of the city, county, and State of New York, Duncan E. Mackenzie, of Brooklyn, in the State of New York, and John W. Emerson, of New York, in the State of New York, are held and firmly bound unto Thomas S. Greenman, of Mystic Bridge, Connecticut, in the sum of five hundred dollars, to be paid to the said Thomas S. Greenman, his executors or administrators, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of
29 our heirs, executors, and administrators, firmly by these presents. Sealed with our seals; dated this 18th day of June, 1879.

Whereas the above-named Augustus D. Juilliard hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the circuit court of the United States for the southern district of New York, in the second circuit:

Now, therefore, the condition of this obligation is such, that if the above-named Augustus D. Juillard shall prosecute his said writ of error to effect and answer all costs and damages if he shall fail to make good his plea, then this obligation shall be void; otherwise, to remain in full force and virtue.

A. D. JUILLIARD. [L. S.]
DUNCAN E. MACKENZIE. [L. S.]
J. W. EMERSON. [L. S.]

Sealed and delivered in the presence of—
C. S. SIMPSON.

30 SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

John W. Emerson and Duncan E. Mackenzie, being severally duly sworn, do each depose and say that he is a resident of the State of New

York, and is worth the sum of five hundred dollars over and above all his just debts and liabilities, and exclusive of property exempt by law from execution.

DUNCAN E. MACKENZIE.
J. W. EMERSON.

Sworn to before me this eighteenth day of June, 1879.
C. S. SIMPSON,
Notary Public, New York.

Security approved.
N. Y., June 24, 1879.
SAM'L BLATCHFORD,
Circuit Judge.

31 (Endorsed:) U. S. Supreme Court. Augustus D. Juillard ag'st Thomas S. Greenman. Original. Bond for costs and damages on writ of error. Butler, Stillman & Hubbard, att'ys for pl'ffs in error, 111 Broadway, N. Y. U. S. circuit court. Filed June 26, 1879. John I. Davenport, clerk.

32 UNITED STATES OF AMERICA, *ss:*

To Thomas S. Greenman, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the southern district of New York, in the second circuit, wherein Augustus D. Juilliard is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 24th day of June, in the year of our Lord one thousand eight hundred and seventy-nine.

SAM'L BLATCHFORD,
Circuit Judge.

33 Due personal service of the within citation upon the defendant in error within-named is hereby admitted this 25th day of June, 1879.

JAMES McKEEN,
Def't's Att'y.

34 (Indorsed:) U. S. Supreme Court. Augustus D. Juilliard ag'st Thomas S. Greenman. (Original.) Citation. Butler, Stillman & Hubbard, att'ys for pl'ff in error, 111 Broadway, N. Y. U. S. circuit court. Filed Jun. 26, 1879. John I. Davenport, clerk.

(Indorsement on cover:) No. 779. Augustus D. Juilliard, plaintiff in error, vs. Thomas S. Greenman. S. New York C. C., U. S. Filed 9th July, 1879.

ADDITION TO RECORD 9.

1 Supreme Court of the United States. October term, 1883.

AUGUSTUS D. JUILLIARD, PLAINTIFF IN ERROR,
vs.
THOMAS S. GREENMAN, DEFENDANT IN ERROR.

SIR: Please take notice that on the stipulation in this action dated this day, a copy of which is hereto annexed, we shall move this court at the opening thereof, on the second Monday of October next, at the Capitol, in the city of Washington, at 12 o'clock noon, or as soon thereafter as counsel can be heard, for an order amending the record as in and by said stipulation provided, or for such other or further order as to the court may seem proper.

Dated New York, Sept. 29, 1883.

Yours, &c.,

BUTLER, STILLMAN & HUBBARD,
Att'ys for Pl'ff in Error.

To JAMES MCKEEN, Esq'r,
Att'y for Defendant in Error.

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2 Supreme Court of the United States. October term, 1883.

AUGUSTUS D. JUILLIARD, PLAINTIFF IN ERROR,
vs.
THOMAS S. GREENMAN, DEFENDANT IN ERROR.
No. 9. Stipulation.

The fact being that the sole ground of the refusal by the plaintiff in the above-entitled action to receive the United States notes mentioned and described in the answer in said action was that the same were not a valid legal tender, and that the whole amount of the purchase price of the cotton described in the complaint was not tendered in gold coin of the United States, which fact was stated by the counsel for the respective parties at the hearing on the demurrer, and was considered by the circuit court, but may not sufficiently appear on the record in this court, and the sole question at issue being the validity of said United States notes as a legal tender for the payment of debts:

3 It is now stipulated and agreed that, in order to avoid any question of form or pleading, the demurrer and amended answer be respectively amended, with the leave of the court, so that the same and the record thereof shall state the above-mentioned fact, as follows:

The amended answer is hereby amended by adding after the words "in payment of $5,100 thereof," in folio 19, second paragraph, on page 5 of the record, the words, "on the sole ground that said $5,100 was not tendered in gold coin of the United States," and the demurrer is hereby

amended by adding at the end of the first paragraph thereof, on page 6 of the record, the words, " it appearing on the face of said answer that the reissued United States notes therein described were not a valid tender for the payment of the indebtedness mentioned in said answer."

And it is further stipulated that the plaintiff in error may apply to this court for leave to amend the record in this action as above agreed at the next motion day.

Dated New York, Sept'r 29th, 1883.

JAMES McKEEN, *Att'y for Def't in Error.*
BUTLER, STILLMAN & HUBBARD,
Att'ys for Pl'ff in Error.

Due service of within notice & stipulation is hereby admitted.
Sept. 29, '83.

JAMES McKEEN,
Att'y Def't in Error.

4 (Endorsed:) Supreme Court U. S. 1883. October term. No. 9. Augustus D. Juilliard, pl'ff in error, vs. Thomas S. Greenman. Stipulation of counsel and addition to record with notice of motion. Filed 2d Oct., 1883.

110-421

ADDITION TO RECORD 9.

1 Supreme Court of the United States. October term, 1883.

AUGUSTUS D. JUILLIARD, PLAINTIFF IN ERROR,
vs.
THOMAS S. GREENMAN, DEFENDANT IN ERROR.

SIR: Please take notice that on the stipulation in this action dated this day, a copy of which is hereto annexed, we shall move this court at the opening thereof, on the second Monday of October next, at the Capitol, in the city of Washington, at 12 o'clock noon, or as soon thereafter as counsel can be heard, for an order amending the record as in and by said stipulation provided, or for such other or further order as to the court may seem proper.

Dated New York, Sept. 29, 1883.

Yours, &c.,

BUTLER, STILLMAN & HUBBARD,
Att'ys for Pl'ff in Error.

To JAMES MCKEEN, Esq'r,
Att'y for Defendant in Error.

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2 Supreme Court of the United States. October term, 1883.

AUGUSTUS D. JUILLIARD, PLAINTIFF IN ERROR,
vs.
THOMAS S. GREENMAN, DEFENDANT IN ERROR. } No. 9. Stipulation.

The fact being that the sole ground of the refusal by the plaintiff in the above-entitled action to receive the United States notes mentioned and described in the answer in said action was that the same were not a valid legal tender, and that the whole amount of the purchase price of the cotton described in the complaint was not tendered in gold coin of the United States, which fact was stated by the counsel for the respective parties at the hearing on the demurrer, and was considered by the circuit court, but may not sufficiently appear on the record in this court, and the sole question at issue being the validity of said United States notes as a legal tender for the payment of debts:

It is now stipulated and agreed that, in order to avoid any ques-
3 tion of form or pleading, the demurrer and amended answer be respectively amended, with the leave of the court, so that the same and the record thereof shall state the above-mentioned fact, as follows:

The amended answer is hereby amended by adding after the words "in payment of $5,100 thereof," in folio 19, second paragraph, on page 5 of the record, the words, "on the sole ground that said $5,100 was not tendered in gold coin of the United States," and the demurrer is hereby

amended by adding at the end of the first paragraph thereof, on page 6 of the record, the words, " it appearing on the face of said answer that the reissued United States notes therein described were not a valid tender for the payment of the indebtedness mentioned in said answer."

And it is further stipulated that the plaintiff in error may apply to this court for leave to amend the record in this action as above agreed at the next motion day.

Dated New York, Sept'r 29th, 1883.

JAMES McKEEN, *Att'y for Def't in Error.*
BUTLER, STILLMAN & HUBBARD,
Att'ys for Pl'ff in Error.

Due service of within notice & stipulation is hereby admitted.
Sept. 29, '83.

JAMES McKEEN,
Att'y Def't in Error.

4 (Endorsed:) Supreme Court U. S. 1883. October term. No. 9. Augustus D. Juilliard, pl'ff in error, vs. Thomas S. Greenman. Stipulation of counsel and addition to record with notice of motion. Filed 2d Oct., 1883.